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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,976	10/16/2003	Mark Russell Attieh	0073/65994	8950
7590	11/15/2007			
Richard F Jaworski Cooper & Dunham 1185 Avenue of the Americas New York, NY 10036			EXAMINER WINTER, JOHN M	
			ART UNIT 3621	PAPER NUMBER
			MAIL DATE 11/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	09/937,976	ATTIEH, MARK RUSSELL
	Examiner	Art Unit
	John M. Winter	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 August 2007.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 52-66 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 52-66 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

The Applicants amendment filed on August 28, 2007 is hereby acknowledged, Claims 52 - 66 remain pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 52 - 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heindel et al. (US Patent 6,304,857) in view of Randle et al. (US Patent 5,974,146).

As per claim 52,

Heindel et al. ('857) discloses a method for conducting financial transactions comprising:
providing an intermediate database (Figure 1, element 40)
providing an intermediate database computer for controlling the intermediate database,(Figure 1)
accessing the intermediate database and using the first terminal identifier of the first communication device to obtain details of the first account (Figure 5);

linking a first terminal identifier of a first communication device to a first account number within the intermediate database, with the computer being in communication with a communication network and also being in communication with at least one database containing details of a first account which has a first account number and also containing details of a second account which has a second account number (Column 7, lines 16-50 – figure 3)

receiving from the first communication device via the communication network , the first terminal identifier of the first communication device , second terminal identifier instead of the second account number, and an amount to be paid from the first account (Column 8, lines 23-39)

Heindel et al. ('857) does not explicitly disclose communicating a signal to interrogate the first account to determine whether sufficient funds are available in the first account to effect payment, when it is determined that sufficient funds are available, communicating a signal to debit the first account to the second account. Randle ('146) discloses communicating a signal to interrogate the first account to determine whether sufficient funds are available in the first account to effect payment, when it is determined that sufficient funds are available, communicating a signal to debit the first account to the second account (column 10, lines 31-41) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Heindel et al. ('857)'s system with Randle ('146)'s teaching in order to limit the prosecution of fraudulent transactions.

Claims 60, 61 and 62 are in parallel with claim 52 and are rejected for at least the same reasons.

As per claim 53,

Heindel et al. ('857) discloses the method of claim 52

Heindel et al. ('857) does not explicitly disclose conducting the financial transaction on a real time, on-line basis. Randle ('146) discloses conducting the financial transaction on a real time, on-line basis..(column 7, lines 10-20) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Heindel et al. ('857)'s system with Randle ('146)'s teaching in order to provide an efficient service to the customer.

As per claim 54,

Heindel et al. ('857) discloses the method of claim 52

wherein the first account number is a :first bank account number, the first account is a first bank account, the second account number is a second bank account number, and the second account is a second bank account.(Column 7, lines 16-50 – figure 3)

As per claim 55,

Heindel et al. ('857) discloses the method of claim 52

further comprising linking the second terminal identifier to the second account number in the intermediate database.(Column 7, lines 16-50 – figure 3)

As per claim 56,

Heindel et al. ('857) discloses the method of claim 52

Official Notice is taken that "wherein the second terminal identifier of a second communication device" is common and well known in prior art in reference to electronic transactions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a terminal identifier as a device identifier in order to uniquely identify a client.

As per claim 57,

Heindel et al. ('857) discloses the method of claim 52

Official Notice is taken that "the first communication device is a cellular telephone." is common and well known in prior art in reference to electronic transactions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a cellular phone in order to create a mobile platform for initiating transactions.

As per claim 58,

Heindel et al. ('857) discloses the method of claim 52

Claim 58 (Previously Presented): The method of claim 52 further comprising communicating the fact of the transaction to the first communication device.(Column 7, lines 16-50 – figure 3)

As per claim 59,

Heindel et al. ('857) discloses the method of claim 56 communicating the fact of the transaction to the second communication device.(Column 7, lines 16-50 – figure 3)

As per claim 63,

Heindel et al. ('857) discloses a method for conducting financial transactions according to claim 52,

Heindel et al. ('857) does not explicitly disclose canceling the transaction when it is determined that sufficient funds are not available. Randle ('146) discloses canceling the transaction when it is determined that sufficient funds are not available.(column 10, lines 31-41) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Heindel et al. ('857)'s system with Randle ('146)'s teaching in order to limit the prosecution of fraudulent transactions.

Claims 64-66 are in parallel with claim 63 and are rejected for at least the same reasons.

Response to Arguments

The Applicants arguments filed on August 20, 2007 have been fully considered. In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some

reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA) 1969.

Conclusion

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Winter whose telephone number is (571) 272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Patent Examiner -- 3621



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